

James v. Toledo Metropolitan Housing Authority



PH-OH-001-001

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

JOSIE JAIMES,)
TOMAS GONZALES,)
CLARENCE TURNER,)
and)
PATRICIA DAVIS)
On their own behalf and on)
behalf of all others)
similarly situated)

Plaintiffs)

-vs-)

TOLEDO METROPOLITAN)
HOUSING AUTHORITY,)
CARL BARRETT, in his)
official capacity as the)
Director of the Toledo)
Metropolitan Housing)
Authority,)
RAY J. FLORY,)
ROBERT DORRELL,)
DR. JOHN W. HOLLAND, JR.)
FRANK B. DAIG, JR., and)
DOROTHY DENNIS, in their)
official capacities as)
Board members of the)
Toledo Metropolitan)
Housing Authority)

Defendants)

C 74-68
Civil Action No. _____

COMPLAINT
CLASS ACTION

FEB 15 11 01 AM '74
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I. PRELIMINARY STATEMENT

1. This action is brought to enjoin racially discrim-
inatory conduct in the provision and location of low-income

housing in the Toledo metropolitan area. It is also brought to restrain interference with the right to travel and with the implementation of federal programs.

2. This suit is instituted by low-income, minority persons residing in the Toledo metropolitan area on behalf of themselves and all other low-income minority residents living in the Toledo metropolitan area who seek the opportunity to live in decent, safe and sanitary housing in suburban areas outside areas of minority concentration.

II. JURISDICTION

3. This Court has jurisdiction of the action pursuant to 28 U.S.C. 1343 and 42 U.S.C. 3612 and 3617.

4. The plaintiffs' claims for relief are predicated upon 42 U.S.C. 1981, 1982, 1983, 2000d, and 3601 et seq., and upon the Commerce Clause, the Thirteenth Amendment, and the Fourteenth Amendment of the United States Constitution.

III. PLAINTIFFS

5. Plaintiff Josie Jaimes, a Mexican-American, is a citizen of the United States who resides in Toledo, Ohio. Until her house was condemned in November, 1973 by the Lucas County Health Department, she and her six (6) children lived in Sylvania, a suburb of Toledo, in a two (2) room house which had no running water, no toilet facilities, defective wiring, and inadequate heat. She had lived in the Sylvania area for approximately nineteen (19) years. She and her family would like to live in the Sylvania area for reasons of employment, schools, and personal ties, but they are unable to afford decent, safe, and sanitary housing without the assistance of the Toledo Metropolitan Housing Authority (TMHA). When she applied for a public housing unit at TMHA, plaintiff Jaimes was advised that no such housing is located in the Sylvania area. She is on the TMHA waiting list.

6. Plaintiff Tomas Gonzales, a Mexican-American, is

a citizen of the United States who resides with the other seven (7) members of his family in Sylvania in a two (2) room house which has no running water and no toilet facilities. He has lived in the Sylvania area for approximately twenty two (22) years. Plaintiff Gonzales would like to live in decent, safe, and sanitary housing in the Sylvania area but is unable to afford such housing without the assistance of TMHA. He is on the TMHA waiting list.

7. Plaintiff Clarence Turner, a black American, is a citizen of the United States who resides with his family in a TMHA public housing development which is predominantly black and which is located in a racially concentrated area of Toledo. His children attend racially segregated schools. He has to travel to his job in Wood County, Ohio because he is unable to afford housing in proximity to his work. Plaintiff Turner would like to live with his family in the Maumee area but is unable to afford decent, safe, and sanitary housing without the assistance of TMHA.

8. Plaintiff Patricia Davis, a black American, is a citizen of the United States who resides with her family in a TMHA public housing development which is predominantly black and which is located in a racially concentrated area of Toledo. Her children attend racially segregated schools. She would like the opportunity to live in the suburbs of Toledo but is unable to afford decent, safe, and sanitary housing without the assistance of TMHA.

IV. CLASS ACTION ALLEGATIONS

9. This is a class action brought pursuant to Rule 23 (a)(b)(1)(A) and (B), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure.

10. The class consists of all low-income residents of the greater Toledo, Ohio area who by virtue of their race and poverty are unable to secure decent, safe, and sanitary housing at rents or prices which they can afford without the assistance of Defendant TMHA. The class is so numerous that the

joinder of all members is impracticable. The exact size of the class is unknown, but an indication of the class size is the TMHA waiting list for family housing units, which presently consists of approximately one thousand eight hundred (1,800) individuals who are members of this class. There are questions of law and fact common to the class. The common question of law and fact is whether defendants' provision and location of public housing in the Toledo area has denied plaintiffs and their class their rights under the Constitution and laws of the United States. The claims of the representative parties are typical of the claims of the above mentioned class. The plaintiffs will fairly and adequately protect the interests of their class because they are members of the class and have no known adverse interest to the class. Prosecution of separate actions by individual members of the class would create a risk of (a) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the defendants, and (b) adjudications with respect to individual members of the class which would, as a practical matter, be dispositive of the interest of the other members not parties to the adjudication or substantially impede their ability to protect their interests. The defendants have acted or refused to act, on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as a whole. The questions of law and fact common to the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for a fair and efficient adjudication of the controversy. There is no conflict among the interests in individually controlling the prosecution and defense of separate actions. There is no known litigation presently pending concerning similar claims involving any members of the class. This Court is a desirable forum in which to concentrate the litigation of the claims of the class since it has the power to hear all the claims and to grant

appropriate relief. There are not likely to be any difficulties in the management of a class action in notice to the members of the class, since the whereabouts of all the members of the class is known.

V. DEFENDANTS

11. Defendant Toledo Metropolitan Housing Authority (TMHA) is a body corporate and politic established under the laws of the State of Ohio. Ohio Revised Code (O.R.C.) 3735.27 et seq. It has the responsibility and authority to provide, through construction, acquisition, and/or leasing, low-income housing in all areas of Lucas County except Harding Township. Under the United States Housing Act of 1937, as amended, 42 U.S.C. 1401 et seq., the United States Department of Housing and Urban Development is the principal source of financial assistance for such housing.

12. Defendant Barrett is the Director of TMHA and as such, is charged with the administration and general supervision of its housing programs.

13. Defendants Daig, Dennis, Dorrell, Flory, and Holland are members of the TMHA Board of Commissioners appointed pursuant to O.R.C. 3735.27, who determine the policies of TMHA.

VI. FACTUAL ALLEGATIONS

14. Lucas County is composed of the municipalities of Toledo, Sylvania, Maumee, and Oregon, the villages of Ottawa Hills, Holland, Whitehouse, Waterville, Berkey and Harbor View, and the townships of Swanton, Washington, Jerusalem, Waterville, Spencer, Springfield, Sylvania, Monclova, Providence, Richfield, and Harding.

15. In 1970, the population of Lucas County was 484,370 persons: 427,541 (approximately 88%) were white; 54,694 (approximately 11%) were black; and 2,135 (less than 1%) were Mexican-American or other minority group.

16. The population of Lucas County is racially segregated. Approximately 97% of the black persons and about 86% of the Mexican Americans and other minorities who reside in the County live in the City of Toledo and are concentrated in limited

sections of it. The remaining minority group members reside in concentrated pockets in other parts of the County.

17. In the past several years, employment opportunities in the suburban areas of Lucas County have increased at a rate far exceeding the rate of increase for the City of Toledo, where the overwhelming majority of blacks, Mexican-Americans, and other minorities reside.

18. The racial composition of the public schools in Lucas County reflects the racially segregated residential patterns of the area.

19. TMHA manages approximately 3,000 units of public housing in the City of Toledo. These dwellings have been provided under cooperation agreements or resolutions with the City. TMHA has also entered into a cooperation agreement with Lucas County calling for 100 units, of which only 52 have been erected. All family public housing is located in the City of Toledo, except for the 52 units which are located in a predominantly black and low-income area of the County called Spencer Sharples.

20. The TMHA waiting list for family unit public housing is composed of about 1,800 applicants, two-thirds of whom are blacks and Mexican-Americans.

21. In the past, TMHA has discriminated against minorities in the administration and operation of its public housing program.

22. There is a substantial need in all areas within the jurisdiction of TMHA for decent, safe, and sanitary low-income housing which plaintiffs and the class they represent can afford.

23. Before TMHA may construct or acquire low-income housing, it must enter into a cooperation agreement with the governing body in whose jurisdiction the project is to be located. 42 USC 1415(7)(b).

24. Before TMHA may lease low-income housing, it must receive approval by resolution from the governing body in whose jurisdiction the leased housing is to be located. 42 USC 1421(b)(2).

25. In the past several months, TMHA has been asked, through oral and written communications, to seek cooperation agreements and authorizing resolutions from each of the governing bodies in Lucas County. Despite these requests, defendants failed to seek cooperation agreements and resolutions. Without such agreements or resolutions TMHA is precluded from constructing, acquiring, or leasing low-income housing outside the City of Toledo.

VII. CLAIM FOR RELIEF

26. The defendants' failure to seek cooperation agreements and authorizing resolutions from the governing bodies of the suburban communities has the effect of perpetuating residential segregation, of impeding the right to travel, and of interfering with the implementation of federal housing programs. Among other consequences, the results have been to:

- (a) Exclude low-income minorities from living outside areas of racial concentration;
- (b) Confine low-income minorities to the City of Toledo;
- (c) Maintain the all-white character and image of the suburban communities surrounding Toledo;
- (d) Deprive white residents living in segregated neighborhoods of the benefits of a racially integrated community; and
- (e) Deny minority persons equal access to suburban jobs and deny their children equal educational opportunities.

27. The conduct, acts, and practices of the defendants described in the preceding paragraphs interfere with and deny rights secured to the plaintiffs and the class they represent by 42 U.S.C. 1981, 1982, 1983, 2000d, and 3601 et seq., and by the Commerce Clause, Thirteenth Amendment, and Fourteenth Amendment of the United States Constitution. Unless restrained by order of this Court, the defendants will continue to engage in illegal activity and cause irreparable harm to plaintiffs and members of their class.

VII. PRAYER FOR RELIEF

WHEREFORE, the plaintiffs pray that this Court cause

this case to be in every way expedited for a hearing on the merits and, after such hearing, enter an order:

(a) Enjoining the defendants, their officers, agents, and employees, and all other persons acting in active concert or participation with any of them from:

- (1) Engaging in any acts or practices which have the purpose or effect of denying equal housing opportunities because of race, color, religion, or national origin, of obstructing or impeding the right to travel, or of interfering with the implementation of federal housing programs.
- (2) Expending any funds, selling any bonds, entering into any contract, or taking any other steps to construct or lease low-income housing in any area which is or may soon become racially impacted; and

(b) requiring the defendants, their officers, agents and employees to:

- (1) Take all necessary steps to secure cooperation agreements and authorizing resolutions from each of the governing bodies in Lucas County;
- (2) Submit to this Court, within 30 days, a comprehensive plan for the dispersal of public housing throughout the territorial jurisdiction of TMHA;
- (3) Award each of the named plaintiffs and the class they represent compensatory and punitive damages in an amount to be determined by the Court, and
- (4) Take reasonable steps to correct the effects of past discriminatory conduct, including the implementation of a comprehensive plan of affirmative action.

Plaintiffs pray for the recovery of all costs, including attorney fees, incurred in maintaining this action, and for such further relief as the interests of justice may require and this Court deems appropriate.

Respectfully submitted,

JAY MULKEEN

JOSEPH R. TAFELSKI

ARTHUR WOLF

MARTIN SLOANE
National Committee Against
Discrimination in Housing
1425 H Street, N. W.
Washington, D. C. 20005
(202) 783-8150

Co-Counsel for Plaintiffs

R. MICHAEL FRANK
Advocates for Basic Legal
Equality, Inc.
740 Spitzer Building
Toledo, Ohio 43604
(419) 255-0814

Co-Counsel for Plaintiffs